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Honorable Espionage

BY MICHAEL J. BARRETT

"It is often a merit of an ideal to be unattainable. Its being so keeps forever before us something more to be done, and saves us from the ennui of a monotonous perfection."

—*Oliver Wendell Holmes*

Michael Barrett is assistant general counsel with the Central Intelligence Agency. This article is the first of three on the legal and moral status of the intelligence profession in a free society.

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The practice of espionage has for centuries existed in a state of semipeaceful coexistence with mankind. On the one hand, it has been welcomed as the first line of defense against tyranny and aggression; on the other, it has been condemned as illegal, immoral and a degradation of the human soul. Ironically, espionage is one of the few areas of endeavor capable of eliciting both these reactions from the same mind, sometimes at the same time. Those actively engaged in espionage, or "intelligence," as it is more formally characterized, have entertained each other, perhaps from time immemorial, with the pungent adage, "Espionage is the world's second oldest profession, and just as honorable as the first." This is usually related only half jokingly, for the intelligence professional understands only too well the narrow tightrope he must walk between virtue and vice. The lines are not always clearly drawn in espionage; the villains do not always wear black hats, and, indeed, there often are no villains. While the pursuit of ruthless terrorists is a noble work, the question can be examined in more subtle form: Who is a terrorist? The Israeli *Irgun*? The Arab *Fedayeen*? How should a terrorist be stopped? And, in confrontations between intelligence professionals of different nations, both may be acting honorably to protect the interests of their respective countries. More important, when do the virtuous activities of the intelligence professional cross the line from legality into illegality, and from virtue into vice? These are questions not only for the intelligence professional, but also for the society he serves and which relies upon his integrity.

Whether we appreciate the fact or not, espionage and its fruits permeate our lives. They affect our education, our careers, the food we eat, the telephone calls we make, even the toys with which our children play. *The Washington Post* reports that military reconnaissance satellites are being used to detect marijuana and other crops growing on public land. President Reagan has publicly displayed other reconnaissance photographs of Soviet satellite receivers in Cuba, photographs reportedly taken by our own Lockheed SR-71 aircraft. Cheyenne Mountain in Colorado will soon become the home of SPADOC, the Space Defense Operations Center, which will be able to monitor the status of all U.S. space assets and the actions of all Soviet space systems. A private company named SBS is advertising discount telephone rates for those who subscribe to "Skyline, the new satellite residential long-distance service." On the darker side of communications technology, several Cubans were reportedly expelled from the United States for their efforts to eavesdrop on U.S. telecommunications satellites. And *The New York Times* discloses that in the not-too-distant future we may see even the simple child's computer designed to prevent its signals from being detected by electronic espionage. A single issue of *Aviation Week and Space Technology* described not only the ability of a U.S. satellite to use infrared imaging to analyze vegetation, crops and natural resources worldwide but also notes that the Soviet Union has just launched five additional spacecraft: two for ocean surveillance, two for military surveillance and one for the analysis of natural resources. This same issue reports that the Chinese have launched their twelfth spacecraft since 1970, this one intended for the eventual deployment of a geosynchronous orbit communications network. These efforts alone will have an impact on crop production, weather, communications and the development of our natural resources.

Espionage, both in principle and in practice, has influenced man since the beginning of time. It can be used to preserve freedom and democracy, and it can also be abused. It can be an awesome force for good or an instrument of terror. Before it can be analyzed, however, it must be defined. "Espionage" is generally defined as an intelligence activity designed to acquire information through secret or clandestine means. This definition can be expanded to include "covert action," which is a special activity conducted abroad in support of national foreign policy objectives and executed so that the role of the government is not apparent or acknowledged publicly. "Espionage" will be used here as synonymous with "intelligence." An "agent" is an indi-

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